

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/791,270 Confirmation No. : 8940
First Named Inventor : Masaaki NOMURA
Filed : March 3, 2004
TC/A.U. : 1618
Examiner : Hasan Sayed AHMED

Docket No. : 100598.53322US
Customer No. : 23911

Title : Pharmaceutical Hard Capsule Containing Inorganic
Substance

Response to Notice of Non-Compliant Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed November 24, 2008, Applicants elect species II (b) – that is, the penem antibiotic species of **Claim 17** - for further prosecution in this matter. Claims 1-14 and 17-23 are believed to generic to species II (b). Applicants also affirm their previous election of species I (e) – that is, the penem antibiotic in the form recited in Claim 21 (see the reply filed April 1, 2007). Claims 1-7, 11, 12, and 16-21 are believed generic to species I (e). An early action on the merits of all the claims is earnestly solicited.

If necessary to effect a timely response, please consider this paper a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket No. 100598.53322US).

December 19, 2008

Respectfully submitted,

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